

MINUTES OF THE CITY COUNCIL
CITY OF AUSTIN, TEXAS
Special Called Council Meeting

December 5, 1979
4:00 P.M.

Council Chambers
301 West Second Street

The meeting was called to order with Mayor McClellan presiding.

Roll Call:

Present: Mayor McClellan, Councilmembers Cooke, Goodman, Mayor Pro Tem Himmelblau, Councilmembers Mullen, Snell, Trevino

Absent: None

The Mayor stated that this was a Special Called Meeting for the purpose of considering a program for single family tax exempt bonds as provided under Texas Enabling Legislation House Bill 1876. She further stated that the Council was also posted for a Resolution authorizing the creation of a non-profit corporation with seven members of the Council as the Board of Directors and also approving the necessary articles in the corporation.

Mayor McClellan recognized Dr. Charles Urdy, Chairperson of the City of Austin Housing Authority. Dr. Urdy read from the statement which he had presented to the Council. "In the interest of the Austin community, the Board of Commissioners of the Housing Authority, in February of this year, initiated discussions on the possibility of issuing tax exempt mortgage revenue bonds. These tax exempt bonds would produce low interest mortgage funds for low and moderate income families." Dr. Urdy further stated that the staff met with City of Austin administrators on several occasions and conducted a seminar for local savings and other financial institutions at which some twenty-five financial operations were presented.

Dr. Urdy continued. "If requirements remain as we understand them, the City Council must have an affidavit from the Housing Authority Board of Commissioners that must certify our activities and intend regarding the revenue bond program and transferring that status to the City of Austin", in order for Austin to be permitted consideration of participation in the program.

In conclusion, Dr. Urdy stated that "the Housing Authority will consider any City Council request for our support, although serious discussion and any final decision may be premature at this point and time. We hope that the City Council would publicly acknowledge the leadership role taken by the Housing Authority in this matter. Additionally, the Housing authority Board may want to continue its input and participation in the program, should the Council decide to proceed. We therefore would request that the Housing Authority be seriously considered to form the necessary non-profit corporated body to issue the bonds, when and if the decision is to be made. In any case, the Housing Authority will provide support where possible. In closing, we offer a final comment for your consideration - should Austin be included in the eligible cities and the Council decides to proceed, we hope that the program will be structured to assist truly low and moderate income families, as originally intended by the Housing Authority. It is our opinion that to do otherwise would be an abuse of the funds locally; it was this kind of abuse that brought national attention and legislative review of the program. The Housing Authority believes that the proper use of these funds means providing for low and moderate income families. To this end we would also advise very precise structure and control of the bond issue."

Councilmember Mullen stated that he fully recognized that if the Housing Authority had not gotten involved, the Council would not be here to consider the City of Austin's potential eligibility for participation in the program. Secondly, he asked Dr. Urdy, what is meant by "will consider"? "Does that mean, if it goes your way you will do it and if it doesn't go your way, you won't?"

Dr. Urdy replied that no action had been taken as a Board and for them to make any decision they would have to have a meeting.

Councilmember Mullen restated this question. "If the City Council, in effect, decides to go with.....itself, as a Board today, would you all be willing then...to provide support where possible...will go ahead and support the City Council as the entity as a non-profit corporation?"

He further asked, "Do you think that there is a good possibility that you would not support the City Council?"

Dr. Urdy replied that in probability that he would vote for it. In answer to another question by Councilmember Mullen, he stated that his definition of low and moderate income would be something below \$20,000 family annual income.

Councilmember Mullen asked, "How long or how much of the money - the \$100,000,000 that we are talking about would be able to be spent if we locked this into - I'm not sure that everybody understands. It is my understanding anyway, let me put it this way, that this money has to be all out within a year. We're not talking about an on-going program - something that is going to be set up continuously running that is going to be going on for years. It is just a one-shot deal and I think you understand that; but, what I'm saying is that if we go out to the market place and sell \$100,000,000 in bonds and if fact can't spend them all in the areas in low, low -say \$25,000 or \$35,000, \$45,000 or whatever we decide on - do you all have any objections to then trying to make sure all the money is put out in the market place in that years time?"

Dr. Urdy replied that it would have to be structured very carefully in the beginning and in so doing, they could not deviate from that.

Mayor McClellan stated that she hoped at some point in the Public Hearing that the Council and speakers would address what the purpose of the program is. She said the problem as she sees it is whether the purpose of the program is to put out \$100,000,000 in bonds or is it to help those people in low and moderate incomes. She said that she shares the concern with Dr. Urdy that the needs of the low and moderate income families be addressed. She requested from the Housing Authority as to what affect this program might have for the waiting list.

Mr. James Mitchell, Director of the Housing Authority, said that there is about a 25% turnover every year which represents approximately 425 people moving out for various reasons.

Councilman Mullen said that he has come problems with the whole program but that we are in an economic dive in this area and he would like to see the whole amount of money spent.

Councilman Trevino commented that now that we have an opportunity to receive \$100,000,000 we really don't have a comprehensive plan. We don't know how much of the money should be utilized for rehab or strictly low cost housing but these questions will certainly have to be answered, before any kind of commitment is made.

Dr. Urdy commented that the enabling legislation has not been passed and no one knows what will be allowed.

Councilmen Mullen said that he sees several reasons to move forward quickly: (1) El Paso is ready to move and Houston will be ready in December. Other cities will be flooding the market place with their bonds before we have a chance to get out bonds to the consumer at the best price possible; (2) The economy of Austin right now is turned around and there is going to be unemployment if it continues to turn around, in that sector of the house building business.

The Mayor said that she would like to move as quickly as prudent, rather than as quickly as possible. She asked if it didn't pass and the bonds became taxable and we've already set up, who is liable?

Jerry Harris, City Attorney, said that if the bonds were issued and sold on the market and then the legislation comes out the wrong way and the bonds end up being non-tax exempt, there might very well be some lawsuits. He said that they had done some checking into insurance to cover any potential liability for law suits. He noted that we can't get insurance for a brand new corporation but that the current policy might be extended; however, it does not cover Councilmembers.

Councilman Mullen said that we may end up not even issuing the bonds, but the purpose of today's meeting is to set up a non-profit corporation and then come back in a week or so with the criteria.

Mayor McClellan stated that she is not opposed to the program, but she would like to have time to ready the form before she puts her name to a non-profit corporation.

Councilman Trevino asked of Dr. Urdy, "If requirements remain the same, or if requirements remain as we understand them (the Housing Authority), the City Council must have an affidavit from the Housing Authority Board of Commissioners that must certify our activities and intent regarding the revenue bond program

and transferring that status to the City of Austin." - "What do you mean by that?"

Dr. Urdy replied. "Well, as I understand it again, now I think Mr. Mitchell understands it better than I do, but the enabling legislation states that in this one-shot participation, only those agencies that have initiated this program prior to this legislation could participate; and as I understand it again, it also enables municipalities to capture, more or less, the activities of other agencies within that municipality."

Councilmember Trevino commented that the Housing Authority was the one who initiated this activity, but consideration is being given by the Council to name itself as Board of Directors and that the Housing Authority must now in effect transfer that status to the Council. The Councilman asked what would happen if the Board withheld that approval.

Dr. Urdy replied that nothing could be done, as he understands it. They would have to have a meeting and vote. State legislation prohibits Housing Authority from proceeding.

Councilmember Snell inquired as to whether the Council was just wasting time, as the legislation had not yet been passed.

Dr. Urdy said that until the Legislation is passed nothing can be done, as they don't have anything to pass on at this time.

Councilmember Mullen commented that according to attorneys, we could proceed now and be prepared for the time when the legislation does pass.

Anthony Spears, representing the Black Citizens' Task Force Committee on Housing, spoke to the Council as follows: "We have a particular interest in the cities \$100,000,000 bond proposal to provide low interest mortgage loans within the City. The basis of our interest lies in the deplorable housing conditions that exist in east and south Austin, there is an urgent need for affordable mortgage funds. The study site of East Austin has received less than 1% of the cities total mortgage loan activity and the area contains 4000 sub-standard houses. This is 49% of the areas existing houses. To compliment this worsening condition, East Austin has received less than 8% of the cities total home improvement activity; moreover, 46% of the areas elderly unrelated individuals are below the poverty level. The consultants study shows South Austin with similar disgusting statistics.

With these facts in mind, we find it necessary to address the guidelines that may be adopted to administer such a proposal. We will address (1) lending ceiling, (2) loan qualifications and down payment, (3) structural qualifications, (4) loan provisions for property costs plus renovation and (5) a committed percentage of total lendable funds to be used for renovation. Mr. Spears discussed the guidelines in some detail.

Councilmember Mullen commented that after \$100,000,000 had been taken out for renovation and five to six million dollars for the Austin redevelopment, then what is left will be used for used housing (1/3) and new housing (2/3).

After thanking Mr. Spears, Councilman Goodman concurred with him on two specific points: (1) the \$55,000 lending ceiling and (2) \$30,000 maximum adjusted income.

A gentleman representing the East Town Lake Citizens and two other associations read the following statement to the Council: "As committee organizations, we would like to commend this Council's initiative to really seriously look at a housing program directed at the low to moderate income people of the city. First of all, I'd like to read off some statistics that would kind of put this program in perspective. According to the city's 1979 Housing Assistance Plan, 31% of Austin households fell into the range of low to moderate households or specifically 3 to 36,958 households. Now these households have been frozen out of the housing market due to the tightening of money and high interest rates; so therefore, we have some areas here in the city, such as East Austin, Montopolis and other areas similar to that which traditionally and for a long period of time have been frozen out of home mortgage money. What we need, I think here, that while Councilmen here are very concerned about the fees - I think it is a good program, but as far as the community is concerned, we need to look at some very good assurances to make the emphasis, to make sure that this program is directed at the low and moderate income. If you look on our presentation, we have some assurances there and I will just go down the list."

The gentleman continued. "We from the East Austin community would like to see a percentage of the loans by both number and dollar amounts committed to black and Mexican-American residents of Austin; 30% of the money committed to East Austin, Montopolis and the Rainey Street area; required reporting by all financial institutions showing ethnicity of applicant, amount of loan, location of property by census tract and action on the application, advertising of the program on minority radio stations and in minority news; commitment to home improvement loans for necessities and basic repairs and not for repairs for luxuries; requirements that at least 50% of the loans be made to families with incomes of less than the median family income for the Austin Standards Metropolitan and Statistical Area; no loans made to families with more than 120% of the NFI; a maximum loan limit of \$43,680; that steps be taken and a plan developed to minimize displacement; that all multi-family dwellings contain at least 25% Section Eight; for the low income applicant whose income is less than 80% of the NFI, a total or partial grant could cover the down payment and could be paid out of CDC funds; at least 75% of the loans be made available with no more than 2% down payment; all possible efforts be made to keep the interest rate as low as possible."

He continued. "If you only processed 1/3 of those total households (in need of assistance) and made an average loan of \$30,000 amount, that would amount to \$300,000,000; so, I think what we need to start looking at is the possibility of making the major thrust and insuring that this program is directed to low and moderate income households and assessing later on in the year, and we understand that there is an immediacy to this, it is a one-shot deal, so maybe we can start at the reverse and emphasizing low to moderate income housing and then assessing later on and if you find that loans aren't being processed, then maybe there will be a time for review. But, I think that basically what will assure us and assure the community that this is a sincere effort geared toward low and moderate income people."

The Council discussed the possibility of setting aside some funds from HCD, revenue sharing or the General Fund to advertise and pay attorney's fees to get the program moving.

Councilman Snell inquired as to whether the Council would be willing to consider paying for the advertising, if the Council is not selected to be the Board.

Robert Mann, President of the Austin Association of the Home Builders, spoke to the issue. He noted that there are some grim figures related to the building industry today. He suggested that some of the following guidelines be adopted: (1) Would like to see the City issue the bonds; (2) \$30,000 adjusted gross income is fair and \$80,000 maximum on the mortgage; (983 mortgages would be able to be initiated); (3) Make the money available for owner occupied duplexes; (4) 10% of the money (\$10,000,000) go into rehabilitation of existing houses, with a provision that if the money is not used in a reasonable period of time, it goes back into the General Fund; (5) \$30,000,000 to go for existing homes that have been lived in before; (6) \$60,000,000 or 2/3 of the money would go to brand new homes; (7) Would like to see the financial institutions in the City that have stuck with the home buyer and home builder during the rough times get the money.

Mr. Mann concurred with Councilman Mullen that time is important and that the Council should act as swiftly and quickly as possible.

Paul Hernandez noted that the more low and moderate income people that can be serviced the better off we are.

Bill Ogelsby, President of Investors, Inc., said that he is already involved in similar plans in El Paso, Midland and Odessa and offered some helpful hints to the Council. He said that in Midland all the loans are conventional. In El Paso and Odessa the loans can be conventional, FHA or VA. The mortgage lenders have nine months to get the money committed and eighteen months to get the loans closed and the money put out.

Mr. Ogelsby suggested that the advertising money could come from the difference between the sale of the bonds and what the actual loans on the mortgages are. The mortgages back the bonds.

Councilwoman Himmelblau inquired, "if we had a cut-off of the 55 or the 40 of what we've been hearing today, what would this do as far as the marketability of the bonds?"

Mr. Ogelsby replied that the mortgage companies would be a little hesitant about buying as much as they would normally.

He said that Austin has the highest market in the state and that we will probably have to get up on our limits, or the home builders will be limited as to what they can produce.

Councilwoman Himmelblau asked if there is less risk with new construction than with renovation.

Mr. Ogelsby replied with lower income loans delinquencies are higher, according to statistics.

Charles Miles, representing no specific group, concurred with some of the other speakers regarding some assurances that monies will be set aside for minority communities - specifically East Austin. Mr. Miles expressed some concern that the money might become a slush fund for white flight.

Councilman Mullen commented, "if you have cheaper money in the City limits of Austin than you do outside the City limits, it would seem like to me that you would be discouraging white flight. You're having people come in and buy houses in the City limits - that are moving here with a new industry, instead of going out to Round Rock or other places. You see I look at it just the opposite from the way you do."

Fred Wells, representing a graduated payment mortgage program called Flip for Flexible Loan Insurance, directed his comments to the lower income requirements. He said that a graduated mortgage program would aid in reaching further into the community to lower incomes and yet providing qualified home buyers.

Ed Wendler, representing Nash Phillips-Copus and Bill Milburn Companies, stated that the companies are in support of a mortgage bond program sponsored by the City of Austin. He said that it is vital that the Council appoint itself as the Board. He also emphasized the importance of the time factor. Mr. Wendler stated. "If the legislation in Congress fails and does not pass, then this program is valid and good. The legislation up there is to abolish it, not to create it. There is an amendment on that legislation which is designed to defeat it, which would exempt the City of Austin and a bunch of other cities; so, if the Board is created and the bonds are issued prior to passage of that legislation, then you are alright - you are covered."

Councilman Cooke commented. "If this body elected to create a Board, in other words if that is all we've done, we haven't taken any other steps, we certainly haven't issued bonds and we certainly haven't set the criteria, would we in effect place ourselves in a position that no matter what they did in Congress that we would be in a position of strength for proceeding, if we wanted to?"

After Mr. Wendler suggested that the Board be created today, Mayor McClellan respectfully requested that Council delay the action for one week.

Wanda Terrell, of the Austin Redevelopment Authority, requested that the Council designate her group as the Board to handle the bond program.

Councilman Mullen stated, Mrs. Terrell's group could only handle a maximum of \$6,000,000. He said, "you don't want for us to appoint you to the Board to handle \$100,000,000 because you are interested in \$6,000,000, do you?"

Tom Knickerbocker, Executive Director of the Austin Redevelopment Authority, replied. "The state statute of 1876 allows and permits the creation of any number of corporations for this purpose; however, only one such corporation has the authority to lend money to lending institutions, of which I am sure you are aware...although you are discussing a \$100,000,000 bond issue, we're talking about a broad range of responsibility to a low income group - the one defined by HUD....in that range of income, we are talking about possibly \$6,000,000."

Councilman Mullen stated that he wanted to clarify the question - The Austin Redevelopment Authority requested to be set up as a Board - not the Board. They are requesting to be set up as a Board to control \$6,000,000.

Laurie Paxon, representing Savings Association of Austin, said there are three main areas of concern: (1) guidelines for the low to moderate income; (2) the administration of the financing corporation and the (3) implementation thru the lenders. Ms. Paxon then discussed the areas of concern in detail.

Ms. Paxon asked the Council who has title to the property in the event of a foreclosure.

A gentleman from the audience replied that the securities will be guaranteed by the mortgage itself.

Councilman Mullen requested that the Savings and Loan Association verify the figure of \$456,000,000 in loans in 1978.

Jim Rock, a member of the Building Standards Commission, stated that the mortgage revenue subsidy bonds are an excellent opportunity that Austin shouldn't pass up in trying to reverse some of the housing trends in Austin, Mr. Rock said that he did not think there was any problem concerning liability on the part of the City, as it is his understanding that when someone purchases a bond they assume the risk of any change in the tax exempt status.

Mayor McClellan requested that all considerations concerning mortgage loan bonds be delayed one week.

MOTION

Mayor Pro Tem Himmelblau moved that the Council vote to close the Public Hearing and delay any decision for one week. The motion, seconded by Councilmember Trevino, carried by the following vote:

Ayes: Mayor McClellan, Councilmembers Cooke, Goodman, Mayor Pro Tem Himmelblau, Councilmembers Snell, Trevino
Noes: Councilmember Mullen

ADJOURNMENT

Council adjourned its meeting at 6:25 P.M.

December 5, 1979

APPROVED Carole Keeton McAllen
Mayor

ATTEST:

Grace Monroe
City Clerk